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**MAILED**

**DEC 02 2010**

**OFFICE OF PETITIONS**

In re Application of :  
Progulske-Fox, et al. :  
Application No. 09/980,845 :  
Filed: April 8, 2002 :  
Attorney Docket No.: 00-505-B :  
:

**ON PETITION**

This is a decision on the "Petition to under 37 CFR 1.182 Request for Withdrawal of Terminal Disclaimer" filed July 23, 2009.

The petition to withdraw the terminal disclaimer is **dismissed**.

A review of the application file history reveals that a "Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior Patent" was filed on April 10, 2009. On July 23, 2009, the instant petition was filed to withdraw the terminal disclaimer on the grounds that a non-final Office action was issued April 23, 2009, and that the terminal disclaimer may be unnecessary after additional amendments to the claims are made in response to the non-final rejection. Examiner Steele has determined that this request is premature as the double-patenting rejection made in the December 17, 2009, final rejection was addressed by the terminal disclaimer filed April 10, 2009, and, to date, no amendments to the claims have been made that would make the terminal disclaimer unnecessary.

The application is being directed to the Technology Center 1600, GAU 1639 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222. Questions relative to the need for the terminal disclaimer should be directed to Examiner Steele.

/Kenya A. McLaughlin/

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